

REFERENCE TITLE: **towing companies; release of vehicles**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1291

Introduced by
Senator Gorman

AN ACT

AMENDING SECTION 28-4847, ARIZONA REVISED STATUTES; RELATING TO TOWING OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-4847, Arizona Revised Statutes, is amended to
3 read:

28-4847. Insurance companies: release: fees: violation:
classification: definition

A. ~~On payment of all reasonable towing, storage and related fees, a towing company shall release a towed vehicle to a person designated in writing by an insurance company.~~ The towing company shall release the vehicle during normal business hours on the day ~~both~~ the request for release IS PROVIDED TO THE TOWING COMPANY, THE DETAILED STATEMENT OF CHARGES IS PROVIDED BY THE TOWING COMPANY and payment ~~are~~ FOR ALL REASONABLE TOWING, STORAGE AND RELATED FEES IS received by the towing company. The request for release shall be in writing and:

1. Shall indicate the name of the insurer as well as the name, address, ~~and~~ telephone number and fax number of a representative of the insurer.

2. Shall include the name, address and telephone number of the owner, the owner's written consent for release of the vehicle and the name of the insured, if different from the owner.

3. Shall include the insurer's claim number and the name of the person to whom the insurer authorizes release of the vehicle.

4. Shall be signed by the owner except as provided in paragraph 6 of this subsection.

5. May be faxed, mailed or hand delivered to the towing company.

6. If the written consent of the owner is not obtained pursuant to paragraph 2 of this subsection, the request for release shall include a statement that the insurer has authorization from the vehicle owner to remove the vehicle from the towing company's storage premises.

7. Shall include a statement that the owner has been informed that pursuant to this section the towing company is presumptively not responsible for any loss of personal property or damage to the vehicle that is not disclosed to the towing company before the insurer or the insurer's authorized agent removes the vehicle from the towing company's storage premises. The notice shall also include a statement that the owner may inspect the vehicle at the towing company's storage premises, may remove any personal property from the vehicle and may report any damage to the vehicle to the towing company at the time of inspection. **THE TOWING COMPANY SHALL NOT REQUIRE PAYMENT FOR THE REMOVAL OF PERSONAL ITEMS THAT ARE INSIDE THE VEHICLE IF THE REMOVAL IS DURING NORMAL BUSINESS HOURS.**

B. AFTER AN INSURANCE COMPANY HAS COMPLETED A REQUEST FOR RELEASE OF A VEHICLE AND BEFORE PAYMENT IS MADE FOR THE RELEASE OF THAT VEHICLE, THE TOWING COMPANY SHALL PROVIDE TO THE INSURANCE COMPANY AT NO COST A DETAILED WRITTEN STATEMENT OF ALL CHARGES FOR TOWING, STORAGE AND RELATED FEES. ADDITIONAL STORAGE CHARGES MAY ACCRUE UNTIL FINAL PAYMENT IS MADE AND THE

1 VEHICLE IS REMOVED FROM THE PREMISES BY THE VEHICLE OWNER OR THE INSURANCE
2 COMPANY.

3 **C.** If the vehicle owner does not inspect the vehicle pursuant to
4 subsection A, paragraph 7 of this section ~~prior to~~ BEFORE removal of the
5 vehicle to another premises, or has inspected the vehicle and has had the
6 opportunity to remove personal property in the vehicle, a rebuttable
7 presumption shall be created that damage to the vehicle and any loss of
8 personal property in the vehicle occurred while the vehicle was not in the
9 custody of the towing company. The presumption may be overcome by a
10 preponderance of evidence to the contrary.

11 **D.** Except for proration for partial days, a towing company shall
12 not charge additional storage fees for a vehicle after a request for release
13 and payment has been made pursuant to subsection A of this section if both of
14 the following apply:

15 1. The insurance company or its representative provides the written
16 request for release as prescribed in this section.

17 2. The insurance company or its representative removes the vehicle
18 from the towing company's storage premises during normal business hours on
19 the day the towing company receives the request for release.

20 **E. A TOWING COMPANY SHALL NOT TOW OR TRANSPORT A VEHICLE FROM ITS
21 STORAGE LOT WITHOUT THE PRIOR PERMISSION OF THE VEHICLE OWNER OR THE
22 INSURANCE COMPANY. THE TOWING COMPANY MAY MOVE A VEHICLE BETWEEN ITS OWN
23 STORAGE LOTS WITHOUT OBTAINING PRIOR PERMISSION. THE TOWING COMPANY SHALL
24 NOT CHARGE ANY ADDITIONAL FEE OR OTHER MONIES TO A VEHICLE OWNER OR AN
25 INSURANCE COMPANY FOR MOVING A VEHICLE AS A RESULT OF ANY CHANGE IN LOCATION
26 OF THE VEHICLE BETWEEN ITS OWN STORAGE LOTS.**

27 **F. A VEHICLE REPAIR FACILITY OR ANY EMPLOYEE OF A VEHICLE REPAIR
28 FACILITY SHALL NOT PAY OR AGREE TO PAY, AND A TOWING COMPANY OR ANY EMPLOYEE
29 OF A TOWING COMPANY SHALL NOT ACCEPT OR AGREE TO ACCEPT, ANY MONIES, FEES,
30 COMMISSIONS, CREDITS, GIFTS, GRATUITIES, THINGS OF VALUE OR OTHER
31 COMPENSATION THAT IS PROVIDED DIRECTLY OR INDIRECTLY FOR THE PURPOSE OF
32 INDUCING THE TOWING COMPANY OR ANY EMPLOYEE OF A TOWING COMPANY TO DO ANY OF
33 THE FOLLOWING:**

34 1. RECOMMEND THE SERVICES OF THE VEHICLE REPAIR FACILITY TO POTENTIAL
35 CUSTOMERS.

36 2. REFER POTENTIAL CUSTOMERS TO THE VEHICLE REPAIR FACILITY.

37 3. DELIVER A VEHICLE TO ONE VEHICLE REPAIR FACILITY RATHER THAN
38 ANOTHER.

39 **G. UNLESS THE VEHICLE IS DIRECTED BY A LAW ENFORCEMENT OFFICER TO BE
40 TAKEN TO A POLICE STORAGE YARD, THE TOWING COMPANY SHALL TOW THE VEHICLE TO
41 ONE OF THE FOLLOWING LOCATIONS, IN THE FOLLOWING ORDER OF PRIORITY:**

42 1. A LOCATION SPECIFIED BY THE OWNER OF THE VEHICLE IF THE OWNER IS
43 PRESENT AT THE TIME OF THE TOW AND IS CAPABLE OF INDICATING THE OWNER'S
44 PREFERENCE.

1 2. A VEHICLE STORAGE YARD DESIGNATED IN THE CONTRACT UNDER WHICH THE
2 TOWING COMPANY HAS RESPONSIBILITY FOR TOWING THE VEHICLE.

3 D. H. This section does not create a cause of action or a right to
4 bring an action against a towing company for releasing a motor vehicle to a
5 person other than the owner if the written authorization as prescribed in
6 this section is provided to the towing company by the owner or an insurance
7 company.

8 I. A PERSON WHO VIOLATES SUBSECTION F OF THIS SECTION IS GUILTY OF A
9 CLASS 2 MISDEMEANOR.

10 E. J. For the purposes of this section, "owner" has the same meaning
11 ~~as defined~~ PRESCRIBED in section 28-101.